

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

October 6, 2009

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Harold Collins. Kemp Conrad was absent.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Pastor Michael E. Ellis, Sr., from Impact Baptist Church and Ministry. Councilman Morrison presented Pastor Ellis with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of September 15, 2009 with the following motion:

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Collins
Conrad was absent

APPROVED

1. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF LAUDERDALE ST. FOR MR. WILLIAM THOMAS FOWLKES III, BETWEEN E.H. CRUMP BLVD. AND MISSISSIPPI BLVD.**

MOTION: Fullilove

SECOND: Ford

APPROVED, by unanimous voice vote

30. **RESOLUTION CONGRATULATING AND COMMENDING PROJECTMAX ON 25 YEARS OF SERVICE TO THE MEMPHIS COMMUNITY.**

MOTION: Ware

SECOND: Fullilove

APPROVED, by unanimous voice vote

31. **RESOLUTION COMMEMORATING THE LIFE AND LEGACY OF DR. VASCO SMITH.**

MOTION: Strickland

SECOND: Morrison

APPROVED, by unanimous voice vote

28. **RESOLUTION APPROPRIATING FUNDS FOR THE AIRPORT AREA BEAUTIFICATION PROJECT.**

MOTION: Flinn – 40% minimum

SECOND: Ware

After a lengthy discussion of this item and a statement from the Council Attorney, no action was taken on Flinn's motion

MAIN MOTION: Hedgepeth – allocate \$1,088,550.00 to the Landscape Master Plan, \$250,000.00 for the Memphis welcome sign northbound, \$250,000.00 for the Airport welcome sign southbound and \$35,000.00 for irrigation well and pump for the north end irrigation for a total of \$1,623,550.00

SECOND: Ware

AYES: Boyd, Brown, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and Chairman Collins

Halbert did not cast a vote

Conrad was absent

APPROVED, as amended

2. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON DELP STREET AT-GRADE RAILROAD CROSSING, SOUTH OF PIDGEON ROOST ROAD, CONTAINING .40 ACRES.** (Held from 9/15)

Case No. SAC 09-606

Applicant: BNSF Railway
W. Max Rexroad/Hanson-Wilson, Inc. – Representative

Request: Close Delp Street at its at-grade railroad crossing south of Pidgeon Roost Road

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison
SECOND: Boyd
AYES: Boyd, Brown, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and
Chairman Collins
Flinn and Halbert did not cast a vote
Conrad was absent

APPROVED, as amended

3. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE EXISTING WESTERN TERMINUS OF MARKET PLAZA DRIVE AND GERMANTOWN PARKWAY, CONTAINING 2.99 ACRES IN AN AREA CURRENTLY GOVERNED BY PD 08-326.**

Case No. PD 09-316

Applicant: TomBo Properties
John B. Maxwell – Representative

Request: Delete the requirement to extend Kate Bond Road from Interstate 40 south to Bellevue Parkway

LUCB and OPD recommendation: REJECTION

MOTION: Morrison
SECOND: Strickland
AYES: Boyd, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and
Chairman Collins
NAYS: Brown
Flinn did not cast a vote
Conrad was absent

APPROVED

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTHEAST CORNER OF U.S. HIGHWAY 64 AND REID HOOKER ROAD, CONTAINING 176.27 ACRES IN AN AREA CURRENTLY GOVERNED BY P.D. 05-385.**

Case No. PD 09-317

Applicant: Marshall Gordon
The Bray-Davis Firm, LLC - Representative

Request: Planned development amendment to reduce the commercial area, expand the area of apartment uses, add retirement living, a school, church and live/work spaces above the commercial and office uses as additional uses are permitted

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Boyd

AYES: Boyd, Brown, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and
Chairman Collins
Flinn and Halbert did not cast a vote
Conrad was absent

APPROVED, as amended

5. **RESOLUTION APPROVING A USE VARIANCE LOCATED ON THE SOUTH SIDE OF POPLAR AVENUE; 625 FEET EAST OF RIDGEWAY ROAD INTERSECTION, CONTAINING 1.132 ACRES IN THE GENERAL OFFICE (O-G) DISTRICT.**

Case No. UV 09-04

Applicant: Sharkey's Gulf Grill, LLC

Request: Amend site plan to enlarge a restaurant use previously approved by a use variation

LUCB and OPD recommendation: APPROVAL, with conditions

No Public Hearing Required; No Opposition at LUCB

MOTION: Morrison

SECOND: Boyd

AYES: Boyd, Brown, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and
Chairman Collins
Flinn and Halbert did not cast a vote
Conrad was absent

APPROVED

6. **RESOLUTION APPROVING A HOTEL MOTEL WAIVER FOR QUALITY INN, LOCATED AT 6068 MACON COVE.**

Case No. HMW 09-02

MOTION: Morrison
SECOND: Boyd
AYES: Boyd, Brown, Fullilove, Hedgepeth, Morrison, Strickland, Ware and Chairman Collins
Flinn, Ford and Halbert did not cast a vote
Conrad was absent

APPROVED**CONSENT AGENDA – Items 8-15 & 32 may be acted upon by one motion: SEE PAGE 3055 FOR ROLL CALL**

8. **ORDINANCE TO AMEND SECTION 18-19, OF CHAPTER 18, ARTICLE II, OF THE EXISTING CITY CODE OF ORDINANCES TO REFLECT CURRENT STATE LAW, SPECIFICALLY TENNESSEE CODE ANNOTATED SECTION 10-3-103, TO SET FORTH THE TERMS THAT GOVERN THE APPOINTMENT OF MEMBERS OF THE MEMPHIS LIBRARY BOARD OF TRUSTEES, UP FOR F I R S T READING.**

Ordinance No. 5333

APPROVED, on First reading

9. **ORDINANCE TO AMEND CHAPTER 28, ARTICLE VI, DIVISION 3, OF THE CODE OF ORDINANCES, SO AS TO REDUCE THE NUMBER OF ALLOWABLE FALSE ALARMS, INCLUDE CIVIL DAMAGES AND ADD NOTIFICATION PROCESS OF ALARM USERS OPERATING WITHOUT A PERMIT, UP FOR S E C O N D READING.**

Ordinance No. 5328

APPROVED, on Second reading

10. **ORDINANCE TO REVISE CHAPTER 15, SECTION 15-11(D), OF THE CITY OF MEMPHIS CODE OF ORDINANCES, PERTAINING TO THE DIMENSIONS OF LIMBS AND LOGS COLLECTED BY THE CITY OF MEMPHIS, UP FOR S E C O N D READING.**

Ordinance No. 5329

Director of Public Works recommends approval

APPROVED, on Second reading

11. **ORDINANCE TO REVISE CHAPTER 15, SECTION 15-19(A), OF THE CITY OF MEMPHIS CODE OF ORDINANCES, PERTAINING TO THE REMOVAL OF CONSTRUCTION AND DEMOLITION DEBRIS BY PROPERTY OWNERS, UP FOR S E C O N D READING.**

Ordinance No. 5330

Director of Public Works recommends approval

APPROVED, on Second reading

12. **ORDINANCE TO AMEND CABLE FRANCHISE ORDINANCE NO. 4159, EXTENDING THE FRANCHISE ORDINANCE AS AMENDED, UP FOR S E C O N D READING.**

Ordinance No. 5331

APPROVED, on Second reading

13. **RESOLUTION APPROVING FINAL PLAT OF BAPTIST MEMORIAL HOSPITAL PD, PHASE 5, DRAINAGE IMPROVEMENTS.**

Case No. PD 82-016

Contract No. CR-5147

Resolution approves the final plat located on the southside of Walnut Grove Road, east of I-240. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

14. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. SAC 09-605 – Old Holmes Road Closing
- B. Case No. SAC 09-608 – Ida Place Alley Closing
- C. Case No. PD 09-311 – Harbert Avenue P.D.
- D. Case No. PD 09-322 – Memphis College of Art P.D.

Public Hearing Set for October 20, 2009

15. **RESOLUTION CONGRATULATING THE MEMPHIS REDBIRDS ON WINNING THE 2009 PACIFIC COAST LEAGUE CHAMPIONSHIP.**

APPROVED

32. **ORDINANCE TO AMEND CHAPTER 15, CODE OF ORDINANCES, TO INCLUDE REGULATIONS FOR THE PROPER DISPOSAL OF TIRES AND THE REGISTRATION OF CERTAIN TIRE BUSINESSES AND TIRE HAULERS, WITHIN THE CITY OF MEMPHIS, UP FOR F I R S T READING.**

Ordinance No. 5334

APPROVED, on First reading

MOTION: Ware – Pull Item #7 from the Consent Agenda
SECOND: Fullilove
AYES: Boyd, Brown, Fullilove, Halbert, Ware and Chairman Collins
NAYS: Ford, Hedgepeth, Morrison and Strickland
Flinn did not cast a vote
Conrad was absent

Without objection, Item #7 is pulled from the Consent Agenda. Set up as Special Item #1

Morrison objected. So a vote was taken (above)

MOTION: Boyd – Item #12, Franchise Ord. #5331 - Extend the date to December 1, 2009 and add a Date of Public Hearing for 11/3/2009

Without Objection, dates will be added

ROLL CALL CONSENT ITEMS

MOTION: Ford
SECOND: Morison
AYES: Boyd, Brown, Ford, Fullilove, Halbert, Hedgepeth, Ware and Chairman Collins
Flinn, Morrison and Strickland did not cast a vote
Conrad was absent

APPROVED, as amended. Item #7 was pulled from the Consent Agenda and dates will be added to Franchise Ord. #5331

7. **ORDINANCE TO AMEND CHAPTER 21, CODE OF ORDINANCES, CITY OF MEMPHIS, TO AMEND CERTAIN SECTIONS OF ORDINANCE NO. 5217, ARTICLE III OF THE CODE OF ORDINANCES REGULATING JUNK AND SCRAP METAL DEALERS, UP FOR F I R S T READING.**

Ordinance No. 5332

Chairman Collins recognized the following persons who spoke from the audience:

Phillip Oliphant (no card)
Director Godwin (no card)
Ronald Belz, 100 Peabody Pl., Mps, TN 38103

Vincent B. Higgins, 1830 Gallaway, Mphs, TN 38112
Aubrie Kobernus, 6393 Poplar Ave., Mphs, TN 38119
Joseph Kyles, 1465 N. Parkway, Mphs, TN 38112
Tajuan Stout-Mitchell, 3558 Acacia, Mphs, TN 38116
Paul Morris, 552 Riensi Dr., Mphs, TN 38103
Kristi Stanley, 776 N. Germantown Pkwy., Germantown, TN 38018
Chuck Thomas, 6055 Primacy Parkway, Mphs, TN 38119

MOTION: Ware – Pull this Ordinance until after it goes to court
SECOND: Brown

Motion Withdrawn

After a lengthy discussion, Chairman Collins asked Mrs. Ware if she would withdraw her motion; she agreed and Chairman Collins stated that this item will be in Executive Session on October 20, 2009

Councilwoman Ware recognized students and staff from Douglass High School

MLGW FISCAL CONSENT – Items 16-22 may be acted upon by one motion:

16. **RESOLUTION AWARDDING CONTRACT NO. 11242, HEALTHCARE CLAIMS AUDIT, TO BMI AUDIT SERVICE, LLC IN THE FUNDED AMOUNT OF \$122,500.00.**

APPROVED

17. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11240, INFLUENZA VACCINE, WITH METHODIST HEALTHCARE ALLIANCE HEALTH SERVICES IN THE FUNDED AMOUNT OF \$32,000.00. (THIS RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, OCTOBER 20, 2009 TO OCTOBER 19, 2010).**

APPROVED

18. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11304, INSULATION AND JACKETING REPAIRS, WITH INSULATION AND REFRACTORIES SERVICES, INC. IN THE FUNDED AMOUNT OF \$11,175.00, FOR A NEW CONTRACT TOTAL OF \$45,675.00. (THIS COVERS REPAIRS TO THE CURRENT INSULATION DUE TO UNFORESEEN DAMAGES).**

APPROVED

19. **RESOLUTION AWARDDING CONTRACT FOR 900 MHZ RADIOS TO EDISON AUTOMATION, INC. IN THE AMOUNT OF \$32,640.00.**

APPROVED

20. **RESOLUTION AWARDING CONTRACT FOR CAP BANK CONTROLS TO H D SUPPLY IN THE AMOUNT OF \$87,882.00.**

APPROVED

21. **RESOLUTION AWARDING CONTRACT FOR INTERNET SECURITY GATEWAY UPGRADE TO VENTURE TECHNOLOGIES IN THE AMOUNT OF \$143,632.72.**

APPROVED

22. **RESOLUTION AWARDING CONTRACT FOR THE PURCHASE AND INSTALLATION OF SUBSTATION CONTROL HOUSE TO ATKINSON INDUSTRIES, INC. C/O HV SALES CO., INC. IN THE AMOUNT OF \$228,889.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Morrison
SECOND: Fullilove
AYES: Boyd, Brown, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and
Chairman Collins
Flinn and Halbert did not cast a vote
Conrad was absent

APPROVED

23. **APPOINTMENTS**

Citizen Law Enforcement

Appointment

Thomas A. O'Malley

Memphis Community Development Enterprise, Incorporated Board

Appointment

J. Van Menard

Memphis & Shelby County Board of Equalization

Appointment

Edward D. Simmons, Jr.

MOTION: Hedgepeth
SECOND: Ford
AYES: Boyd, Brown, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and
Chairman Collins
Flinn and Halbert did not cast a vote
Conrad was absent

APPROVED

24. **ORDINANCE FIXING TAX RATE OF THE CITY OF MEMPHIS FOR THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS, UP FOR T H I R D AND F I N A L READING.** (Held from 7/7; 7/21; 8/4; 8/18; 9/1; 9/15)

Ordinance No. 5319

Held to November 3, 2009

25. **RESOLUTION APPROPRIATING \$1,200,000.00 IN G.O. BONDS GENERAL IN FY2010 CIP (IS01007) TO REPLACE OBSOLETE EQUIPMENT AND BOLSTER THE CITY'S NETWORK STORAGE CAPACITY. THIS PROJECT WAS APPROVED BY CITY COUNCIL IN THE FY2010 CIP BUDGET.**

MOTION: Strickland
SECOND: Fullilove
AYES: Boyd, Brown, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and
Chairman Collins
Flinn and Hedgepeth did not cast a vote
Conrad was absent

APPROVED

26. **RESOLUTION APPROVING A LEASE AGREEMENT WITH PRAXAIR, INC., AS APPROVED BY THE BOARD OF COMMISSIONERS OF THE MEMPHIS AND SHELBY COUNTY PORT COMMISSION ON NOVEMBER 19, 2008.**

Contract No. CR-5146

MOTION: Strickland
SECOND: Ford
AYES: Boyd, Brown, Fullilove, Halbert, Morrison, Strickland, Ware and Chairman
Collins
Flinn, Ford and Hedgepeth did not cast a vote
Conrad was absent

APPROVED

27. **RESOLUTION REQUESTING THE MEMPHIS CITY CHARTER COMMISSION CEASE TO EXIST.**

MOTION: Strickland
SECOND: Morrison
AYES: Boyd, Brown, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and
Chairman Collins
Flinn and Hedgepeth did not cast a vote
Conrad was absent

APPROVED

29. **RESOLUTION INCLUDING THE ANIMAL SHELTER REPLACEMENT, CIP PROJECT NUMBER PS01010, AS PART OF THE FY10 CAPITAL IMPROVEMENT BUDGET. THE ADMINISTRATION REQUESTS TO APPROPRIATE \$800,000.00 FOR CAT CONDO'S, CAGES, KENNELS AND MISC. ITEMS IN FURNITURE FIXTURES AND EQUIPMENT FUNDED BY G.O. BONDS GENERAL FOR THE ANIMAL SHELTER REPLACEMENT.**

MOTION: Brown
SECOND: Fullilove
AYES: Boyd, Brown, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and
Chairman Collins
Flinn and Hedgepeth did not cast a vote
Conrad was absent

APPROVED

33. **RESOLUTION CANCELLING PROPERTY TAXES ON PROPERTIES OWNED BY ARKWINGS FOUNDATION.**

Friendly Amendment: Add the years 2008-2009

MOTION: Boyd

MAIN MOTION: Ware
SECOND: Brown
AYES: Boyd, Brown, Ford, Fullilove, Halbert, Hedgepeth, Strickland, Ware and
Chairman Collins
Flinn and Morrison did not cast vote
Conrad was absent

APPROVED, as amended

MINUTES

Approval of the Minutes of the regular meeting of October 6, 2009 for Item #33 only:

MOTION: Ware

SECOND: Brown
AYES: Boyd, Brown, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and Chairman Collins
Flinn and Hedgepeth did not cast a vote
Conrad was absent

APPROVED. Set up as Special Item #2

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Collins recognized the following persons who spoke from the audience:

Leo Awgowhat, 3777 Walsingham, Mphs, TN 38128
Walter Broady, 4256 Ledbetter Cv., Mphs, TN 38109
Florence Leffler, 230 Barrone Pl., Mphs, TN 38117
Vanessa Luellen, 827 Pope, Mphs, TN 38112

ADJOURNED MEETING AT 6:25 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records